

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	06-00145-01-CR-W-HFS
RAYMOND A. DELACRUZ,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On July 24, 2006, counsel for Defendant filed a motion pursuant to 18 U.S.C. § 4241 for a judicial determination of Defendant's mental competency (Doc. No. 28). Defendant was examined by Dr. Jason V. Dana, Psy.D, a forensic psychologist, who prepared a report dated November 1, 2006.

On November 22, 2006, I held a competency hearing. During the hearing, both parties stipulated to Dr. Dana's report, but agreed that further evaluation needed to be conducted before determining Defendant's competency (Doc. No. 36). Upon the joint motion of the parties, I ordered that Defendant undergo a second psychological evaluation that would be conducted locally by Dr. John H. Wisner (Doc. No. 36).

I received a report from Dr. Wisner dated December 21, 2006. On January 8, 2007, I held a competency hearing. The parties stipulated to the contents and findings of Dr. Wisner (Doc. No. 43). On January 10, 2007, I issued a Report and Recommendation, finding that Defendant was not competent to stand trial and recommending he be hospitalized pursuant to 18 U.S.C. § 4241(d) for competency restoration treatment (Doc. No. 43). The Court adopted my Report and Recommendation in its entirety on January 19, 2007 (Doc. No. 44).

Defendant was committed for a four-month hospitalization period at the United States Medical Center for Federal Prisoners in Springfield, Missouri, to undergo evaluation and any treatment he would voluntarily accept. While there, Defendant was examined by Lea Ann Preston, Ph.D., who prepared a report dated June 21, 2007. Dr. Preston opined that Defendant was competent to stand trial and assist in his defense.

On August 16, 2007, I held a competency hearing. Defendant was present, represented by appointed counsel Travis Poindexter. The government was represented by Assistant United States Attorney Mike Warner. Both parties stipulated to the contents and findings of Dr. Preston's report (Tr. at 2). No additional evidence was offered by either party (Tr. at 2-3). In addition, the parties waived the ten-day objection period to the Report and Recommendation (Tr. at 3).

Based upon the uncontroverted evidence stipulated to by the parties in this case, I find that Defendant is competent to stand trial and to assist in his defense. Therefore, it is

RECOMMENDED that the court, after making an independent review of the record and applicable law, enter an order finding Defendant competent to stand trial and to assist in his defense.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
August 20, 2007